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Blue Ridge Regional Office
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VIRGINIA WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION - ORDER BY CONSENT
ISSUED TO
CUSTOM WOOD PRODUCTS, LLC
FOR THE
CUSTOM WOOD PRODUCTS, LLC ROANOKE, VA FACILITY
EPA ID No. VAR000016360

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code § 10.1-1455, between the Virginia Waste Management Board, and Custom Wood Products, LLC, regarding the Custom Wood Products, LLC Roanoke, Virginia facility, for the purpose of resolving certain violations of the Virginia Waste Management Act and the applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the Virginia Waste Management Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1401.
2. "BRRO" means the Blue Ridge Regional Office of DEQ, located in Roanoke, Virginia.
3. "CFR" means the Code of Federal Regulations, as incorporated into the Regulations.
4. "CWP" means Custom Wood Products, LLC, a limited liability company authorized to do business in Virginia and its members, affiliates, partners, and subsidiaries. CWP is a "person" within the meaning of Va. Code § 10.1-1400.
5. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.

6. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.
7. "Facility" or "Site" means the Custom Wood Products, LLC facility located at 3304 Aerial Way Drive, Roanoke, Virginia and referred to as Custom Wood Products, LLC's Roanoke, VA facility.
8. "Generator" means person who is a hazardous waste generator, as defined by 40 CFR § 260.10.
9. "Hazardous Waste" means any solid waste meeting the definition and criteria provided in 40 CFR § 261.3.
10. "LQG" means large quantity generator, a hazardous waste generator that generates 1000 kilograms (2200 pounds) or greater of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(a)-(b) and (g)-(l).
11. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1455.
12. "Order" means this document, also known as a "Consent Order" or "Order by Consent."
13. "Regulations" or "VHWMR" means the Virginia Hazardous Waste Management Regulations, 9 VAC 20-60-12 *et seq.* Sections 20-60-14, -124, -260 through -266, -268, -270, -273, and -279 of the VHWMR incorporate by reference corresponding parts and sections of the federal Code of Federal Regulations (CFR), with the effected date as stated in 9 VAC 20-60-18, and with independent requirements, changes, and exceptions as noted. In this Order, when reference is made to a part or section of the CFR, unless otherwise specified, it means that part or section of the CFR as incorporated by the corresponding section of the VHWMR. Citations to independent Virginia requirements are made directly to the VHWMR.
14. "Solid Waste" means any discarded material meeting the definition provided in 40 CFR § 261.2.
15. "SQG" means a small quantity generator, a hazardous waste generator that generates greater than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month and meets other restrictions. *See* 40 CFR § 262.34(d)-(f).
16. "Va. Code" means the Code of Virginia (1950), as amended.
17. "VAC" means the Virginia Administrative Code.
18. "Virginia Waste Management Act" means Chapter 14 (§ 10.1-1400 *et seq.*) of Title 10.1 of the Va. Code. Article 4 (Va. Code §§ 10.1-1426 through 10.1-1429) of the Virginia Waste Management Act addresses Hazardous Waste Management.

SECTION C: Findings of Fact and Conclusions of Law

1. CWP owns and operates the Facility in Roanoke, Virginia. The Facility manufactures custom cabinets. Operations at the Facility are subject to the Virginia Waste Management Act and the Regulations.
2. CWP initially notified of hazardous waste generation activities as a SQG on July 10, 2000, generating D001, F003 and F005 wastes. CWP was issued EPA ID No. VAR000016360 for its facility. On September 17, 2009, CWP notified as a LQG.
3. At the Facility, CWP generates hazardous wastes that include waste paint/lacquer/solvent related materials (D001, D035, & F005). Regulated wastes generated at the Facility include used oil (on-spec; non-hazardous), used oil filters, paint booth filters, glaze contaminated wipes, and spent aerosol cans (potentially D001 or D003 hazardous waste. Universal wastes generated at the Facility include spent fluorescent lamps and spent batteries.
4. On May 17, 2017, Department staff inspected the Facility for compliance with the requirements of the Virginia Waste Management Act and the Regulations. Based on the inspection and follow-up information, Department staff made the following observations.
5. At the time of the inspection, there were six 55-gallon containers present in the <90 day accumulation area that were not labeled "Hazardous Waste". 9 VAC 20-60-262 requires that while being accumulated on-site, each container is labeled or marked clearly with the words "Hazardous Waste." On 8/15/2017, a CWP representative submitted a photograph to DEQ demonstrating that the containers had been labeled as required.
6. At the time of the inspection, two of the six 55-gallon containers present in the <90 day accumulation area were not marked with an accumulation start date. 9 VAC 20-60-262 requires that the date upon which each period of accumulation begins is clearly marked and visible for inspection on each container. On 8/15/2017, a CWP representative submitted a photograph to DEQ demonstrating that the container had been dated as required.
7. CWP operates 5-gallon satellite accumulation containers in each of the 8 paint booths on site. At the time of the inspection, none of the containers were labeled "Hazardous Waste". 9 VAC 20-60-262 states that a generator may accumulate as much as 55 gallons of hazardous waste or one quart of acutely hazardous waste in containers at or near any point of generation where wastes initially accumulate which is under the control of the operator of the process generating the waste, without a permit or interim status provided that they mark their containers either with the words "Hazardous Waste" or with other words that identify the contents of the containers. On 8/15/2017, a CWP representative submitted a photograph to DEQ demonstrating that the containers had been labeled as required.
8. CWP collects used oil in a 55-gallon container in the maintenance shop. At the time of the inspection, the container was not clearly marked with the words "used oil." 9 VAC 20-60-279 requires containers and aboveground tanks used to store oil at generator facilities to be labeled or marked clearly with the words 'Used Oil.' On 6/22/2017, a CWP representative

submitted a photograph to DEQ demonstrating that the container had been labeled as required.

9. CWP manages spent fluorescent lamps as universal waste. At the time of the inspection, there were two containers of spent lamps present on site that were not labeled. 9 VAC 20-60-273 requires that each lamp or a container or package in which such lamps are contained must be labeled or marked clearly with one of the following phrases: "Universal Waste – Lamp(s)," or "Waste Lamp(s)," or "Used Lamp(s)." On 6/22/2017, a CWP representative submitted a photograph to DEQ demonstrating that the containers had been labeled as required.
10. At the time of the inspection, CWP was unable to provide signed copies of final waste manifests for four (4) previous shipments of hazardous waste. These shipments were dated 1/30/15, 4/22/15, 10/14/16, and 1/17/17, respectively. 9 VAC 20-60-262 requires that a generator must keep a copy of each manifest signed in accordance with 40 CFR 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter. On 6/28/2017, a CWP representative submitted signed copies of the final waste manifests for the four shipments in question to DEQ.
11. CWP did not file an Exception Report with the DEQ or EPA for the missing manifests described in Paragraph C(10), above. 9 VAC 20-60-262 requires that a LQG of hazardous waste must submit an Exception Report to the EPA Regional Administrator for the Region in which the generator is located if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. On 6/28/2017, a CWP representative submitted signed copies of the final waste manifests for the four shipments in question to DEQ thus requiring no further action on this violation.
12. CWP did not contact the transporter or the owner or operator of the designated facility for the missing manifests described in Paragraph C(10), above. 9 VAC 20-60-262 a LQG of hazardous who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste. On 6/28/2017, a CWP representative submitted signed copies of the final waste manifests for the four shipments in question to DEQ thus requiring no further action on this violation.
13. At the time of the inspection, CWP was unable to provide documentation that annual personnel training was conducted in 2016. 9 VAC 20-60-265 requires that facility personnel must take part in an annual review of the initial training requirements detailed in 40 CFR 265.16(a). On 08/21/17, a CWP representative submitted documentation that the 2017 annual personnel training had been conducted.
14. CWP has not filed a biennial report for the calendar years 2013 and 2015. 9 VAC 20-60-262 requires a generator who ships any hazardous waste off-site to a treatment, storage, or disposal facility within the USA must prepare and submit a single copy of a Biennial Report to the Regional Administrator by 03/01 of each even numbered year. The Biennial Report must be submitted on EPA Form 8700-13A and must cover generator activities during the

previous year. On 7/7/2017, a CWP representative electronically filed Biennial reports for the 2013 and 2015 reporting years.

15. CWP maintains several job positions that are related to hazardous waste management. At the time of the inspection, CWP was unable to provide documentation of job titles or descriptions for these positions. 9 VAC 20-60-265 requires that the owner or operator must maintain the following documents and records at the facility: (1) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job; (2) A written job description for each position listed under paragraph (d)(1) of this Section. On 6/28/2017, a CWP representative submitted to DEQ job titles and descriptions for the positions in question.
16. On July 25, 2017, based on the inspection and follow-up information, the Department issued NOV No. NOV-17-07-BRRO-001 to CWP for the violations described in paragraphs C(5) through C(15), above.
17. Based on the results of the May 17, 2017 inspection and follow-up information, the Board concludes that CWP has violated 9 VAC 20-60-262, 9 VAC 20-60-279, 9 VAC 20-60-273 and 9 VAC 20-60-265, as described in paragraphs C(5) through C(15), above.
18. CWP has submitted documentation that verifies that the violations described in paragraphs C(5) through C(15), above, have been corrected.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code § 10.1-1455, the Board orders CWP, and CWP agrees to pay a civil charge of **\$4,000** within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

CWP shall include its Federal Employer Identification Number (FEIN) 54-1876550 with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF).

SECTION E: Administrative Provisions

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1. The Board may modify, rewrite, or amend this Order with the consent of CWP for good cause shown by CWP, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.
3. For purposes of this Order and subsequent actions with respect to this Order only, CWP admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. CWP consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. CWP declares it has received fair and due process under the Administrative Process Act and the Virginia Waste Management Act and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by CWP to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. CWP shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. CWP shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. CWP shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and

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- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and CWP. Nevertheless, CWP agrees to be bound by any compliance date which precedes the effective date of this Order.

- 11. This Order shall continue in effect until:

- a. The Director or his designee terminates the Order after CWP has completed all of the requirements of the Order;
- b. CWP petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
- c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to CWP.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve CWP from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

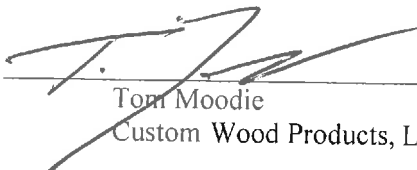
- 12. Any plans, reports, schedules or specifications attached hereto or submitted by CWP and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
- 13. The undersigned representative of CWP certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind CWP to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of CWP.
- 14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.

15. By its signature below, Custom Wood Products, LLC voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 13th day of March, 2018.

Robert J. Weld, Regional Director
Department of Environmental Quality

Custom Wood Products, LLC voluntarily agrees to the issuance of this Order.

Date: 2/6/2018 By:  CEO
Tom Moodie
Custom Wood Products, LLC

Commonwealth of Virginia
City/County of Roanoke

The foregoing document was signed and acknowledged before me this 6th day of February, 2018, by Tom Moodie who is the CEO of Custom Wood Products, LLC, on behalf of the company.


Notary Public

7384601

Registration No.

My commission expires: 5/31/2019

Notary seal:

